

§ 668.21 Treatment of Federal Perkins Loan, FSEOG, and Federal Pell Grant program funds if the recipient withdraws, drops out, or is expelled before his or her first day of class.

(a)(1) If a student officially withdraws, drops out, or is expelled before his or her first day of class of a payment period, all funds paid to the student for that payment period for institutional or noninstitutional costs under the Pell Grant, SEOG, ICL, and Perkins Loan programs are an overpayment.

(2) The institution shall return that overpayment to the respective title IV, HEA programs in the amount that the student received from each program.

(b) For purposes of this section, the Secretary considers that a student drops out before his or her first day of class of a payment period if the institution is unable to document the student's attendance at any class during the payment period.

(Authority: 20 U.S.C. 1094)

§ 668.22 Institutional refunds and repayments.

(a) *General.* (1) An institution shall have a fair and equitable refund policy under which the institution makes a refund of unearned tuition, fees, room and board, and other charges to a student who received Title IV, HEA program assistance, or whose parent received a Federal PLUS loan or Federal Direct PLUS loan on behalf of the student if the student—

(i) Does not register for the period of enrollment for which the student was charged; or

(ii) Withdraws, drops out, is expelled from the institution, or otherwise fails to complete the program on or after his or her first day of class of the period of enrollment for which he or she was charged.

(2) The institution shall provide a clear and conspicuous written statement containing its refund policy, including the allocation of refunds and repayments to sources of aid to a prospective student prior to the earlier of the student's enrollment or the execution of the student's enrollment agreement. The institution must make available to students upon request ex-

amples of the application of this policy and inform students of the availability of these examples in the written statement. The institution shall make its policy known to currently enrolled students. The institution shall include in its statement the procedures that a student must follow to obtain a refund, but the institution shall return the portion of a refund allocable to the Title IV, HEA programs in accordance with paragraph (f) of this section whether the student follows those procedures or not. If the institution changes its refund policy, the institution shall ensure that all students are made aware of the new policy.

(3) The institution shall publish the costs of required supplies and equipment and shall substantiate to the Secretary upon request that the costs are reasonably related to the cost of providing the supplies and equipment to students.

(b) *Fair and equitable refund policy.* (1) For purposes of paragraph (a) of this section, an institution's refund policy is fair and equitable if the policy provides for a refund of at least the larger of the amount provided under—

(i) The requirements of applicable State law;

(ii) The specific refund standards established by the institution's nationally recognized accrediting agency if those standards are approved by the Secretary;

(iii) The *pro rata* refund calculation described in paragraph (c) of this section, for any student attending the institution for the first time whose withdrawal date is on or before the 60 percent point in time in the period of enrollment for which the student has been charged; or

(iv) For purposes of determining a refund when the *pro rata* refund calculation under paragraph (b)(1)(iii) of this section does not apply, and no standards for a refund under State law under paragraph (b)(1)(i) and no standards established by the institution's accrediting agency under (b)(1)(ii) of this section exist, the larger of—

(A) The Federal refund calculation contained in paragraph (d) of this section; or

(B) The institution's refund policy.

(2) For purposes of the calculation of a *pro rata* refund under paragraph (b)(1)(iii) of this section, “the 60 percent point in time in the period of enrollment for which the student has been charged” is—

(i) In the case of an educational program that is measured in credit hours, the point in calendar time when 60 percent of the period of enrollment for which the student has been charged, as defined in paragraph (e) of this section, has elapsed; and

(ii) In the case of an educational program that is measured in clock hours, the point in time when the student completes 60 percent of the clock hours scheduled for the period of enrollment for which the student is charged, as defined in paragraph (e) of this section.

(3) The institution must determine which policy under paragraph (b)(1) of this section provides for the largest refund to that student.

(4) For all refund calculations other than the *pro rata* refund calculation under paragraph (b)(1)(iii) of this section, an institution must subtract the unpaid amount of a scheduled cash payment from the amount the institution may retain in accordance with paragraph (f)(2) of this section.

(c) *Pro Rata refund.* (1) “*Pro rata refund*,” as used in this section, means a refund by an institution to a student attending that institution for the first time of not less than that portion of the tuition, fees, room, board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the withdrawal date, rounded downward to the nearest 10 percent of that period, less any unpaid amount of a scheduled cash payment for the period of enrollment for which the student has been charged.

(2) A “scheduled cash payment” is the amount of institutional charges that is not paid for by financial aid for the period of enrollment for which the student has been charged exclusive of—

(i) Any amount scheduled to be paid by Title IV, HEA program assistance that the student has been awarded that is payable to the student even though the student has withdrawn;

(ii) Late disbursements of loans made under the Federal Stafford Loan, Federal SLS, and Federal PLUS programs in accordance with 34 CFR 682.207(d), and allowable late disbursements of unsubsidized Federal Stafford loans and loans made under the Federal Direct Student Loan Program in accordance with 34 CFR 685.303(d); and

(iii) Late disbursements of State student financial assistance, for which the student is still eligible in spite of having withdrawn, made in accordance with the applicable State’s written late disbursement policies. The late disbursement must be made within 60 days after the student’s date of withdrawal, as defined in paragraph (j)(1) of this section, or the institution must—

(A) Recalculate the refund in accordance with this section, including recalculating the student’s unpaid charges in accordance with this paragraph without consideration of the State’s late disbursement amount; and

(B) Return any additional refund amounts due as a result of the recalculation in accordance with paragraph (h) of this section.

(3) The “unpaid amount of a scheduled cash payment” is computed by subtracting the amount paid by the student for the period of enrollment for which the student has been charged from the scheduled cash payment for the period of enrollment for which the student has been charged.

(4) An institution may exclude from the calculation of a *pro rata* refund under this paragraph a reasonable administrative fee not to exceed the lesser of—

(i) Five percent of the tuition, fees, room and board, and other charges assessed the student; or

(ii) One hundred dollars.

(5)(i) For purposes of this section, “other charges assessed the student by the institution” include, but are not limited to, charges for any equipment (including books and supplies) issued by an institution to the student if the institution specifies in the enrollment agreement a separate charge for equipment that the student actually obtains or if the institution refers the student to a vendor operated by the institution or an entity affiliated or related to the institution.

(ii) The institution may exclude from the calculation of a *pro rata* refund under this paragraph the documented cost to the institution of unreturnable equipment issued to the student in accordance with paragraph (c)(5)(i) of this section or of returnable equipment issued to the student in accordance with paragraph (c)(5)(i) of this section if the student does not return the equipment in good condition, allowing for reasonable wear and tear, within 20 days following the date of the student's withdrawal. For example, equipment is not considered to be returned in good condition and, therefore, is unreturnable, if the equipment cannot be reused because of clearly recognized health and sanitary reasons. The institution must clearly and conspicuously disclose in the enrollment agreement any restrictions on the return of equipment, including equipment that is unreturnable. The institution must notify the student in writing prior to enrollment that return of the specific equipment involved will be required within 20 days of the student's withdrawal.

(iii) An institution may not delay its payment of the portion of a refund allocable under this section to a Title IV, HEA program or a lender under 34 CFR 682.607 by reason of the process for return of equipment prescribed in paragraph (c)(5) of this section.

(6) For purposes of this section—

(i) "Room" charges do not include charges that are passed through the institution from an entity that is not under the control of, related to, or affiliated with the institution; and

(ii) "Other charges assessed the student by the institution" do not include fees for group health insurance, if this insurance is required for all students and the purchased coverage remains in effect for the student throughout the period for which the student was charged.

(7)(i) For purposes of this section, a student attending an institution for the first time is a student who—

(A) Has not previously attended at least one class at the institution; or

(B) Received a refund of 100 percent of his or her tuition and fees (less any permitted administrative fee) under

the institution's refund policy for previous attendance at the institution.

(ii) A student remains a first-time student until the student either—

(A) Withdraws, drops out, or is expelled from the institution after attending at least one class; or

(B) Completes the period of enrollment for which he or she has been charged.

(8) For purposes of this paragraph, "the portion of the period of enrollment for which the student has been charged that remains" is determined—

(i) In the case of an educational program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the student's withdrawal date;

(ii) In the case of an educational program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of scheduled clock hours remaining to be completed by the student in that period as of the student's withdrawal date; and

(iii) In the case of an educational program that consists predominantly of correspondence courses, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the number of lessons not submitted by the student.

(d) *Federal refund.* (1) "Federal refund," as used in this section, means a refund by an institution to a student attending that institution of not less than the portion of institutional charges (tuition, fees, room, board and other charges assessed the student by the institution) to be refunded as follows—

(i) If a student withdraws, drops out, or is expelled from the institution before the first day of classes for the period of enrollment for which the student was charged, the institution must follow the provisions under § 668.21 for the treatment of Federal Perkins Loan, FSEOG, and Federal Pell Grant Program funds, the provisions under § 682.604(d)(3) or (4) for the treatment of

FFEL Program funds, and the provisions under § 685.303(b)(3) for the treatment of Direct Loan Program funds, as appropriate;

(ii) The institution must refund 100 percent of institutional charges, less an administrative fee, if any, as described in paragraph (d)(2) of this section, if a student withdraws on the first day of classes for the period of enrollment for which the student was charged;

(iii) The institution must refund at least 90 percent of institutional charges, less an administrative fee, if any, as described in paragraph (d)(2) of this section, if a student withdraws at any time after the first day of classes for the period of enrollment for which the student was charged up to and including the end of the first 10 percent (in time) of that period of enrollment;

(iv) The institution must refund at least 50 percent of institutional charges, less an administrative fee, if any, as described in paragraph (d)(2) of this section, if the student withdraws at any time after the end of the first 10 percent (in time) of the period of enrollment for which the student was charged up to and including the end of the first 25 percent (in time) of that period of enrollment; and

(v) The institution must refund at least 25 percent of institutional charges, less an administrative fee, if any, as described in paragraph (d)(2) of this section, if the student withdraws at any time after the end of the first 25 percent (in time) of the period of enrollment for which the student was charged up to and including the end of the first 50 percent (in time) of that period of enrollment.

(2) An institution may exclude from the calculation of a Federal refund under this paragraph a reasonable administrative fee not to exceed the lesser of—

(i) Five percent of the tuition, fees, room and board, and other charges assessed the student; or

(ii) One hundred dollars.

(3)(i) For purposes of this section, “other charges assessed the student by the institution” include, but are not limited to, charges for any equipment (including books and supplies) issued by an institution to the student if the

institution specifies in the enrollment agreement a separate charge for equipment that the student actually obtains or if the institution refers the student to a vendor operated by the institution or an entity affiliated or related to the institution.

(ii) The institution may exclude from the calculation of a Federal refund under this paragraph the documented cost to the institution of unreturnable equipment issued to the student in accordance with paragraph (d)(3)(i) of this section or of returnable equipment issued to the student in accordance with paragraph (d)(3)(i) of this section if the student does not return the equipment in good condition, allowing for reasonable wear and tear, within 20 days following the date of the student’s withdrawal. For example, equipment is not considered to be returned in good condition and, therefore, is unreturnable, if the equipment cannot be reused because of clearly recognized health and sanitary reasons. The institution must clearly and conspicuously disclose in the enrollment agreement any restrictions on the return of equipment, including equipment that is unreturnable. The institution must notify the student in writing prior to enrollment that return of the specific equipment involved will be required within 20 days of the student’s withdrawal.

(iii) An institution may not delay its payment of the portion of a refund allocable under this section to a Title IV, HEA program or a lender under 34 CFR 682.607 by reason of the process for return of equipment prescribed in paragraph (c)(3) of this section.

(4) For purposes of this section—

(i) “Room” charges do not include charges that are passed through the institution from an entity that is not under the control of, related to, or affiliated with the institution; and

(ii) “Other charges assessed the student by the institution” do not include fees for group health insurance, if this insurance is required for all students and the purchased coverage remains in effect for the student throughout the period for which the student was charged.

(e) *Period of enrollment for which the student has been charged.* (1) For purposes of this section, "the period of enrollment for which the student has been charged," means the actual period for which an institution charges a student, except that the minimum period must be—

(i) In the case of an educational program that is measured in credit hours or clock hours and uses semesters, trimesters, quarters, or other academic terms, the semester, trimester, quarter or other academic term; or

(ii) In the case of an educational program that is measured in credit hours or clock hours and does not use semesters, trimesters, quarters, or other academic terms and is—

(A) Longer than or equal to the academic year in length, the greater of the payment period or one-half of the academic year;

(B) Shorter than the academic year in length, the length of the educational program.

(2) If an institution charges by different periods for different charges, the "period of enrollment for which the student has been charged" for purposes of this section is the longest period for which the student is charged. The institution must include any charges assessed the student for the period of enrollment or any portion of that period of enrollment when calculating the refund.

(f) *Overpayments.* (1) An institution shall determine whether a student has received an overpayment for noninstitutional costs for the period of enrollment for which the student has been charged if—

(i) The student officially withdraws, drops out, or is expelled, on or after his or her first day of class of that period; and

(ii) The student received Title IV, HEA program assistance other than from the FWS, Federal Stafford loan, Federal PLUS, Federal SLS, Federal Direct Stafford, or Federal Direct PLUS Program for that period.

(2)(i) To determine if the student owes an overpayment, the institution shall subtract the noninstitutional costs that the student incurred for that portion of the period of enrollment for which the student has been charged

from the amount of all assistance (other than from the FWS, Federal Stafford Loan, Federal PLUS, Federal SLS Program, Federal Direct Stafford, or Federal Direct PLUS) that the institution disbursed to the student.

(ii) Noninstitutional costs may include, but are not limited to, room and board for which the student does not contract with the institution, books, supplies, transportation, and miscellaneous expenses.

(g) *Repayments to Title IV, HEA programs of institutional refunds and overpayments.* (1)(i) An institution shall return a portion of the refund calculated in accordance with paragraph (b) of this section to the Title IV, HEA programs if the student to whom the refund is owed received assistance under any Title IV, HEA program other than the FWS Program.

(ii) The portion of the refund that an institution shall return to the Title IV, HEA programs may not exceed the amount of assistance that the student received under the Title IV, HEA programs other than under the FWS Program for the period of enrollment for which the student has been charged.

(2) For purposes of this section, for all refund calculations other than the pro rata refund calculation required under paragraph (b)(1)(iii) of this section—

(i) An institutional refund means the amount paid for institutional charges for the period of enrollment for which the student has been charged minus the amount that the institution may retain under paragraph (g)(2)(iii) of this section for the portion of the period of enrollment for which the student has been charged that the student was actually enrolled at the institution;

(ii) An institution may not include any unpaid amount of a scheduled cash payment in determining the amount that the institution may retain for institutional charges. A scheduled cash payment is the amount of institutional charges that has not been paid by financial aid for the period of enrollment for which the student has been charged, exclusive of—

(A) Any amount scheduled to be paid by Title IV, HEA program assistance that the student has been awarded that

is payable to the student even though the student has withdrawn;

(B) Late disbursements of loans made under the Federal Stafford, Federal SLS, and Federal PLUS programs in accordance with 34 CFR 682.207(d), and allowable late disbursements of unsubsidized Federal Stafford loans and loans made under the Federal Direct Student Loan Program in accordance with 34 CFR 685.303(d); and

(C) Late disbursements of State student financial assistance, for which the student is still eligible in spite of having withdrawn, made in accordance with the applicable State's written late disbursement policies. The late disbursement must be made within 60 days after the student's date of withdrawal, as defined in paragraph (j)(1) of this section, or the institution must—

(1) Recalculate the refund in accordance with this section, including recalculating the student's unpaid charges in accordance with this paragraph without consideration of the State late disbursement amount; and

(2) Return any additional refund amounts due as a result of the recalculation in accordance with paragraph (h) of this section;

(iii) In determining the amount that the institution may retain for the portion of the period of enrollment for which the student has been charged during which the student was actually enrolled, an institution shall—

(A) Compute the unpaid amount of a scheduled cash payment by subtracting the amount paid by the student for that period of enrollment for which the student has been charged from the scheduled cash payment for the period of enrollment for which the student has been charged; and

(B) Subtract the unpaid amount of the scheduled cash payment from the amount that may be retained by the institution according to the institution's refund policy; and

(iv) An institution shall return the total amount of Title IV, HEA program assistance (other than amounts received from the FWS Program) paid for institutional charges for the period of enrollment for which the student has been charged if the unpaid amount of the student's scheduled cash payment is greater than or equal to the amount

that may be retained by the institution under the institution's refund policy.

(3)(i) A student must repay to the institution or to the Title IV, HEA programs a portion of the overpayment as determined according to paragraph (f) of this section. The institution shall make every reasonable effort to contact the student and recover the overpayment in accordance with program regulations (34 CFR parts 673, 690, and 691).

(ii) The portion of the overpayment that the student or the institution (if the institution recovers the overpayment) shall return to the Title IV, HEA programs may not exceed the amount of assistance received under the Title IV, HEA programs other than the FWS, Federal Stafford Loan, Federal PLUS, Federal SLS, Federal Direct Stafford, or Federal Direct PLUS Program for the period of enrollment for which the student has been charged.

(iii) Unless otherwise provided for in applicable program regulations—

(A) If the amount of the overpayment is less than \$100, the student is considered not to owe an overpayment, and the institution is not required to contact the student or recover the overpayment; and

(B) If an institution demonstrates that the total amount of a refund would be \$25 or less, the institution is not required to pay the refund, provided that the institution has obtained written authorization from the student in the enrollment agreement to retain any amount of the refund that would be allocated to the Title IV, HEA loan programs.

(h) *Allocation of refunds and overpayments.* (1) Except as provided in paragraph (h)(2) of this section, if a student who received Title IV, HEA program assistance (other than assistance under the FWS Program) is owed a refund calculated in accordance with paragraph (b) of this section, or if a student who received Title IV, HEA program assistance (other than assistance under the FWS, Federal Stafford Loan, Federal PLUS, Federal SLS, Federal Direct Stafford, or Federal Direct PLUS Program) must repay an overpayment calculated in accordance with paragraph (f) of this section, an institution shall allocate that refund and any

overpayment collected from the student in the following order:

(i) To eliminate outstanding balances on unsubsidized Federal Stafford loans received by the student for the period of enrollment for which he or she was charged.

(ii) To eliminate outstanding balances on subsidized Federal Stafford loans received by the student for the period of enrollment for which he or she was charged.

(iii) To eliminate outstanding balances on Federal PLUS loans received on behalf of the student for the period of enrollment for which he or she was charged.

(iv) To eliminate outstanding balances on unsubsidized Federal Direct Stafford loans received by the student for the period of enrollment for which he or she was charged.

(v) To eliminate outstanding balances on subsidized Federal Direct Stafford loans received by the student for the period of enrollment for which he or she was charged.

(vi) To eliminate outstanding balances on Federal Direct PLUS loans received on behalf of the student for the period of enrollment for which he or she was charged.

(vii) To eliminate outstanding balances on Federal Perkins loans received by the student for the period of enrollment for which he or she was charged.

(viii) To eliminate any amount of Federal Pell Grants awarded to the student for the period of enrollment for which he or she was charged.

(ix) To eliminate any amount of Federal SEOG Program aid awarded to the student for the period of enrollment for which he or she was charged.

(x) To eliminate any amount of other assistance awarded to the student under programs authorized by Title IV of the HEA for the period of enrollment for which he or she was charged.

(xi) To repay required refunds of other Federal, State, private, or institutional student financial assistance received by the student.

(xii) To the student.

(2) The institution must apply the allocation policy described in paragraph (h)(1) of this section consistently to all students who have received Title IV,

HEA program assistance and must conform that policy to the following:

(i) No amount of the refund or of the overpayment may be allocated to the FWS Program.

(ii) No amount of overpayment may be allocated to the Federal Stafford Loan, Federal PLUS, Federal SLS, Federal Direct Stafford Loan or Federal Direct PLUS Program.

(iii) The amount of the Title IV, HEA program portion of the refund allocated to the Federal Stafford Loan, Federal PLUS, Federal SLS programs must be returned to the appropriate borrower's lender by the institution in accordance with program regulations (34 CFR part 682).

(iv) The amount of the Title IV, HEA program portion of the refund allocated to the Title IV, HEA programs other than the FWS, Federal Stafford Loan, Federal PLUS, and Federal SLS programs must be returned to the appropriate program account or accounts by the institution within 30 days of the date that the student officially withdraws, is expelled, or the institution determines that a student has unofficially withdrawn.

(v) The amount of the Title IV, HEA program portion of the overpayment allocated to the Title IV, HEA programs other than the FWS, Federal Stafford Loan, Federal PLUS, Federal SLS, Federal Direct Stafford, and Federal Direct PLUS programs must be returned to the appropriate program account or accounts within 30 days of the date that the student repays the overpayment.

(i) *Financial aid.* For purposes of this section "financial aid" is assistance that a student has been or will be awarded (including Federal PLUS loans and Federal Direct PLUS loans received on the student's behalf) from Federal; State; institutional; or other scholarship, grant, or loan programs.

(j) *Refund dates.* (1) *Withdrawal date.* (i) Except as provided in paragraph (j)(1)(ii) and (iii) of this section, a student's withdrawal date is the earlier of—

(A) The date that the student notifies an institution of the student's withdrawal, or the date of withdrawal specified by the student, whichever is later; or

(B) If the student drops out of the institution without notifying the institution (does not withdraw officially), the last recorded date of class attendance by the student, as documented by the institution.

(ii) If the student does not return to the institution at the expiration of an approved leave of absence under paragraph (j)(2) of this section, or takes a leave of absence that is not approved under paragraph (j)(2) of this section, the student's withdrawal date is the last recorded date of class attendance by the student, as documented by the institution.

(iii) If the student is enrolled in an educational program that consists predominantly of correspondence courses, the student's withdrawal date is normally the date of the last lesson submitted by the student, if the student failed to submit the subsequent lesson in accordance with the schedule for lessons established by the institution. However, if the student establishes in writing, within 60 days of the date of the last lesson that he or she submitted, a desire to continue in the program and an understanding that the required lessons must be submitted on time, the institution may restore that student to "in school" status for purposes of funds received under the Title IV, HEA programs. The institution may not grant the student more than one restoration to "in school" status on this basis.

(2) *Approved leave of absence.* A student who has been granted a leave of absence by an institution is not considered to have withdrawn from the institution and is considered to be on an "approved leave of absence" for purposes of this section (and, for a Title IV, HEA program loan borrower, for purposes of terminating the student's in-school status) under the following conditions—

(i) In any twelve-month period, the institution may grant a single leave of absence to a student, not to exceed 60 days;

(ii) The student must make a written request to be granted a leave of absence; and

(iii) The leave of absence may not involve additional charges by the institution to the student.

(3) *Timely determination of withdrawal for students who drop out.* An institution must determine the withdrawal date for a student who drops out within 30 days after the expiration of the earlier of the—

(i) Period of enrollment for which the student has been charged;

(ii) Academic year in which the student withdrew;

(iii) Educational program from which the student withdrew

(4) *Timely payment.* An institution shall pay a refund that is due to a student—

(i) If a student officially withdraws or is expelled, within 30 days after the student's withdrawal date;

(ii) If a student drops out, within 30 days of the earliest of the—

(A) Date on which the institution determines that the student dropped out;

(B) Expiration of the academic term in which the student withdrew; or

(C) Expiration of the period of enrollment for which the student has been charged;

(iii) If a student—

(A) Does not return to the institution at the expiration of an approved leave of absence under paragraph (j)(2) of this section, within 30 days of the earlier of the date of expiration of the leave of absence or the date the student notifies the institution that the student will not be returning to the institution after the expiration of an approved leave of absence;

(B) Is taking a leave of absence that is not approved under paragraph (j)(2) of this section, within 30 days after the last recorded date of class attendance by the student, as documented by the institution.

(Approved by the Office of Management and Budget under control number 1840–0537)

(Authority: 20 U.S.C. 1091b, 1092, 1094)

[59 FR 61180, Nov. 29, 1994, as amended at 60 FR 34431, June 30, 1995; 60 FR 42408, Aug. 15, 1995; 60 FR 61810, Dec. 1, 1995; 61 FR 60396, Nov. 27, 1996]

§ 668.23 Compliance audits and audited financial statements.

(a) *General.* (1) *Independent auditor.* For purposes of this section, the term "independent auditor" refers to an